

REMARKS

Reconsideration and further examination of the subject patent application in light of the present Amendment and Remarks is respectfully requested.

Claims 1-58 are currently pending in the application. Claims 1-11, 15-25, 28-36, 39-50 and 54 stand rejected. Claims 12-14, 26, 27, 37, 38 and 51-53 have been indicated as allowable, but objected to as being dependent upon a rejected base claim.

Rejection Under 35 U.S.C. §102

Claims 1-11, 15-25, 28-36, 39-50 and 54 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 6,249,089 to Bruwer. Applicant respectfully traverses this rejection.

Independent claims 1, 16, 31 and 44 have been further limited to “a momentary contact . . . for activating and deactivation of the flashlight without changing a previously selected operating mode”. Support for this limitation may be found in numerous locations within the specification (e.g., paragraphs [0101], [0107], etc.).

The claimed invention is now limited to the method step of (and apparatus for) “providing a flashlight with a plurality of different operating modes; providing a momentary contact . . . for selection of any of the plurality of different operating modes and for activation and deactivation of the flashlight without changing a previously selected operating mode; detecting entry of an input code through the momentary contact where said input code identifies one of the plurality of operating modes”. Further, “As used herein, entry of an input code means the activation of the pushbutton 50 in such a manner as to match one or more predetermined timing (i.e., access) codes stored within the processor . . . It does not mean the simple activation of a pushbutton to turn a flashlight on or off”

(specification, paragraph [0070]).

Further, “While any number of different operating modes may be contemplated, three different modes will be described under illustrated embodiments of the invention” (specification, paragraph [0067]). A specific code corresponding to each of the plurality of operating modes is clearly described (specification, paragraph [0069]). In addition, “a difference exists between entry of an input code and activation and deactivation of the flashlight 10” (specification, par. [0106]).

It is noted next that Bruwer fails to provide a flashlight with a plurality of different operating modes (as such terms are defined in the specification). For example, Bruwer explicitly states that “a second ‘on’ activation within a given period after a first ‘on’ and ‘off’ activation, may be programmed into the microchip (control/reset means) to indicate a power reduction or dimming function or any other function as desired by the designer of said device” (Bruwer, col. 10, lines 11-15). However, by definition, the activation of a push button to turn a flashlight on or off does not constitute an input code under the definition provided within the specification. Similarly, “a single closure . . . to activate current switch 202 continuously for a predetermined length of time” (Bruwer, col. 10, lines 28-30) does not represent an input code because the single closure would simply be an “on” command and not an input code. Further, what could be considered an input code (Bruwer, col. 10, lines 30-34) represents a single possible instance of an input code that doesn’t rise to the level of the plurality of different input codes required under the invention.

In addition, Bruwer allows for one-way ON/OFF control. Once the Bruwer flashlight is activated, a dimming function may be selected by a second activation within a predetermined time period. However, after the dimming function, the next activation necessarily deactivates the Bruwer flashlight. In contrast, the claimed invention allows for the independent entry of operating codes and

operating functions that is independent of the ON/OFF control.

The advance of the claimed invention over the prior art is the use of a predetermined set of input codes (that are separate from an ON/OFF function) to accomplish any of a number of different results. More to the point, the use of a predetermined set of input codes may be used to select any of a number of different operating modes. In addition, the use of a separate ON/OFF function allows any of the selected modes to be controlled through a single pushbutton without interfering with mode selection.

Accordingly, important features of applicant's claimed invention are totally missing in the flashlight of Bruwer. Bruwer does not teach or suggest a) the use of a plurality of operating modes, b) the entry of a code corresponding to one of the plurality of operating modes through a momentary contact switch on an outer surface of the flashlight or c) the use of a separate ON/OFF function that can be used without interfering with mode selection. Because at least one significant element of applicant's claimed invention is missing from the device in Bruwer, that reference cannot anticipate applicant's claimed invention. Accordingly, applicant submits that independent claims 1, 16, 31 and 44 are allowable over Bruwer. Further, applicant submits that dependent claims 2-15, 17-30, 32-43 and 45-58 are also allowable over Bruwer as depending from an allowable base claim.

Rejection Under 35 U.S.C. §103

Claims 6-9, 21-23, 32-34 and 45-48 stand rejected under 35 U.S.C. §103 as being unpatentable over Bruwer. In view of the claims as presently amended, applicant respectfully traverses this rejection.

Applicant reasserts the above argument in traversing the Primary Examiner's rejection

regarding Bruwer. In the present case, Bruwer fails to suggest applicant's claimed invention. Applicant submits that independent claims 1, 16, 31 and 44 are allowable and that each of the above rejected dependent claims are allowable as depending from an allowable base claim.

Closing Remarks

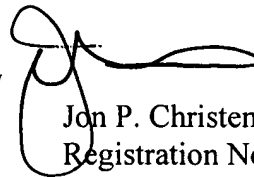
For the foregoing reasons, applicant submits that the subject application is in condition for allowance and earnestly solicits an early Notice of Allowance. Should the Primary Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, the Primary Examiner is respectfully requested to call the undersigned at the below-listed number.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, including but not limited to the issue fee, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920. A duplicate copy of this sheet(s) is enclosed.

Respectfully submitted,

WELSH & KATZ, LTD.

By



Jon P. Christensen
Registration No. 34,137

WELSH & KATZ, LTD.
120 South Riverside Plaza
22nd Floor
Chicago, Illinois 60606
(312) 655-1500
September 23, 2005